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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF REAL ESTATE APPRAISERS

FILED
BOARD OF
REAL ESTATE APPRAISERS

James S. Hsu
DR. JAMES S. HSU 7/20/04
Executive Director

IN THE MATTER OF THE LICENSE OF

CHRISTIAN NAPOLITANO
License #RC 106200

TO PRACTICE AS A REAL ESTATE
APPRAISER IN THE STATE OF NEW JERSEY

Administrative Action

FINAL ORDER OF
DISCIPLINE

This matter came before the New Jersey State Board of Real Estate Appraisers ("the Board") upon information that the Board has reviewed and on which the following findings are made:

FINDINGS OF FACT

1. Respondent is a certified residential real estate appraiser in the State of New Jersey and has been a licensee at all times relevant hereto.

2. On or about September 30, 2003, respondent signed an appraisal of 1007 Bay Boulevard, Lavallette, New Jersey 08753. The appraisal assignment was performed at the behest of Ocean First Bank, 975 Hooper Avenue, Toms River, New Jersey 08753.

3. The appraisal was performed in connection with the current owners of the property, Mr. and Mrs. Groggs, applying for a mortgage on the property. They had purchased the property for cash on September 12, 2003.

4. 1007 Bay Boulevard had previously been owned by respondent. He had purchased the property on September 12, 2003, for \$450,000, and sold the property to Mr. and Mrs. Groggs on the same day for \$572,000.

5. When respondent accepted the appraisal assignment from Ocean First in September of 2003, he did not disclose to Ocean First that he had previously owned the property and had sold the property to the current owners in the course of that same month. Respondent also did not disclose his personal connection with the property in the report itself.

6. Respondent had purchased 1007 Bay Boulevard from Joseph Malanka. Joseph Malanka had purchased the property on May 29, 2003 for \$340,000.

7. Respondent indicated in the appraisal report that the property had transferred in September of 2003 for \$450,000. However, respondent did not indicate in the report his own sale of the property in September of 2003 for \$572,000, nor did respondent indicate the transfer of the property on May 29, 2003 for \$340,000.

8. Respondent certified in the report that he had no present or prospective personal interest or bias with respect to the transaction that was the basis for the appraisal assignment.

CONCLUSION OF LAW

1. Respondent's failure to indicate all prior transfers of the property within the past three years is a violation of

Standards Rule 1-5(a) of the Uniform Standards of Professional Appraisal Practice (the USPAP). This constitutes professional misconduct pursuant to N.J.A.C. 13:40A-6.1, subjecting respondent to sanctions pursuant to N.J.S.A. 45:1-21(e) and (h).

2. Respondent's failure to disclose to his client, Ocean First, his personal connection with the property, and the fact that he had himself recently sold the property to the current owners, despite his having certified that he had no personal interest or bias with respect to the participants in the transaction, is misleading within the intendment of the Conduct Section of the Ethics Rule of the USPAP. This constitutes professional misconduct pursuant to N.J.A.C. 13:40A-6.1, subjecting respondent to sanctions pursuant to N.J.S.A. 45:1-21(e) and (h).

Based on the foregoing findings and conclusions, a Provisional Order of Discipline was entered on March 25, 2004, provisionally imposing a civil penalty of \$5,000 upon respondent, as well as a disciplinary suspension of one year, such suspension to be stayed and served as a period of probation. Copies of the Order were forwarded to respondent at his address of record by certified and regular mail. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting

forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor.

Although the record reflected that the Provisional Order had been served upon respondent, no response was received at the date of the Board's May 11, 2004 meeting. At that time, the Board considered the matter, determined that further proceedings were not necessary and that the Provisional Order should be made final.

In a faxed communication dated May 27, 2004, prior to the issuance of a Final Order in this matter, respondent requested that the Board reconsider this matter in light of his assertion that he had been in a poor state of health physically and mentally during the time period when the relevant facts occurred, and premised also on his previous "exemplary" work in the appraisal field. In a communication forwarded to respondent on June 11, 2004, respondent was advised that the Board would consider his submissions at its next meeting, and he was invited to submit any additional mitigating material he found appropriate. No further submissions were received at the time of the Board's July 13, 2004 meeting. At that time, the Board again noted that no material issue of fact or law had been raised by respondent's submissions, and it determined that further proceedings were not necessary. It further determined that respondent's conduct had been egregious, and did not warrant

mitigation of the penalties imposed, and that the Provisional Order should be made final.

THEREFORE, IT IS ON THIS DAY OF 2004,

ORDERED:

1. Respondent is hereby assessed a civil penalty in the amount of \$5,000.

2. Respondent's certification as a real estate appraiser is hereby suspended for one year, such suspension to be stayed and served as a period of probation.

3. Respondent is to submit payment to the Board of the \$5,000 civil penalty in the form of a certified check or money order made payable to the State of New Jersey, and forwarded to the attention of Dr. James S. Hsu, Executive Director, Board of Real Estate Appraisers, P.O. Box 45032, 124 Halsey Street, 3rd Floor, Newark, New Jersey 07101, within 21 days of the issuance of this Order.

4. Respondent's failure to submit timely payment of the civil penalty imposed by this Order may result in the filing of a certificate of debt, and/or may result in further disciplinary action.

NEW JERSEY STATE BOARD
OF REAL ESTATE APPRAISERS

By: _____

Frank A. Willis
Frank A. Willis
Board President